

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

KIRPATRICK MOORE	§	
v.	§	CIVIL ACTION NO. 6:05cv408
DIRECTOR, TDCJ-CID	§	

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Petitioner Kirpatrick Moore, proceeding *pro se*, filed this application for the writ of habeas corpus under 28 U.S.C. §2254 complaining of the legality of his conviction. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Moore complains of a 1993 conviction for aggravated robbery from Hopkins County, Texas, for which he received a sentence of 20 years in prison. He stated that until he talked to “people with knowledge of the law,” he believed that he could not appeal the conviction.

On November 4, 2005, the Magistrate Judge entered a Report recommending that Moore’s petition be dismissed because of the expiration of the statute of limitations. Moore filed objections to the Magistrate Judge’s Report on November 14, 2005.

In his objections, Moore argues that the Anti-Terrorism and Effective Death Penalty Act of 1996 (the AEDPA) is unconstitutional because it violates the First Amendment right to petition for redress of grievances and the Suspension Clause. The Fifth Circuit has routinely rejected arguments that the AEDPA is unconstitutional. *See, e.g., Bagwell v. Dretke*, 376 F.3d 408, 411 (5th Cir. 2004) (rejecting Suspension Clause challenge); *Lockett v. Day*, 264 F.3d 1140 (Table) (5th Cir.,

June 20, 2001) (not selected for publication in the Federal Reporter) (rejecting First Amendment challenge); *accord*, Fierro v. Cockrell, 294 F.3d 674, 684 (5th Cir. 2002). Moore's objections are without merit.

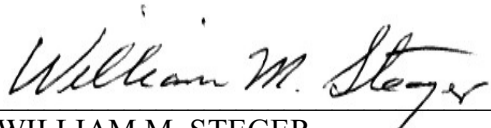
The Court has conducted a careful *de novo* review of the pleadings in this cause, including the original petition, the Report of the Magistrate Judge, the Petitioner's objections thereto, and all pleadings, documents, and records in the case. Upon such *de novo* review, the Court has concluded that the Report of the Magistrate Judge is correct and that the Petitioner's objections are without merit. It is accordingly

ORDERED that the Petitioner's objections are overruled and that the Report of the Magistrate Judge is ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled application for the writ of habeas corpus be and hereby is DISMISSED with prejudice. It is further

ORDERED that any and all motions which may be pending in this action are hereby DENIED.

SIGNED this 16th day of November, 2005.


WILLIAM M. STEGER
UNITED STATES DISTRICT JUDGE